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13 Attorneys for Defendant ARISTA NETWORKS, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CISCO SYSTEMS, INC.,

Case No. 5:14-cv-05344-BLF (NC)

Plaintiff,

V.

ARISTA NETWORKS, INC.

Defendant.

**DECLARATION OF ANDREA NILL
SANCHEZ IN SUPPORT OF
DEFENDANT ARISTA NETWORKS,
INC.'S ADMINISTRATIVE MOTION TO
FILE DOCUMENTS UNDER SEAL IN
CONNECTION WITH ARISTA'S
OPPOSITION TO CISCO SYSTEMS,
INC.'S MOTION TO EXCLUDE OPINION
TESTIMONY OF WILLIAM M. SEIFERT**

Judge: Hon. Beth Labson Freeman

Date Filed: December 5, 2014

Trial Date: November 21, 2016

DECLARATION OF ANDREA NILL SANCHEZ IN SUPPORT OF DEFENDANT ARISTA NETWORKS,
INC.'S ADMINISTRATIVE MOTION TO FILE DOCUMENTS UNDER SEAL
Case No. 5:14-cv-05344-BLF (NC)

1 I, ANDREA NILL SANCHEZ, declare and state as follows:

2 1. I am an attorney licensed to practice law in the State of California and admitted to
 3 practice before this Court. I am an associate at the law firm of Keker & Van Nest LLP and
 4 counsel for Defendant Arista Networks, Inc. ("Arista") in the above-captioned action. I have
 5 personal knowledge of the facts stated herein and, if called as a witness, I could testify
 6 competently thereto.

7 2. I submit this declaration in support of Arista's Administrative Motion to File
 8 Documents Under Seal in connection with Arista's Opposition to Cisco Systems, Inc.'s Motion to
 9 Exclude Opinion Testimony of William M. Seifert.

10 3. Arista's Opposition to Cisco Systems, Inc.'s Motion to Exclude Opinion
 11 Testimony of William M. Seifert is a non-dispositive motion. In this context, I understand that
 12 materials may be sealed so long as the party seeking sealing makes a "particularized showing"
 13 under the "good cause" standard of Federal Rule of Civil Procedure 26(c). *Kamkana v. City and*
Cnty. of Honolulu, 447 F.3d 1172, 1180 (9th Cir. 2006) (quoting *Foltz v. State Farm Mutual Auto*
Insurance Co., 331 F.3d 1122, 1138 (9th Cir. 2003)). In addition, Civil Local Rule 79-5 requires
 14 that a party seeking sealing "establish[] that the document, or portions thereof, are privileged,
 15 protectable as a trade secret or otherwise entitled to protection under the law" (*i.e.*, that the
 16 document is "sealable"). Civil L.R. 79-5(b). The sealing request must also "be narrowly tailored
 17 to seek sealing only of sealable material." *Id.*

18 4. Arista seeks to seal the following material attached to the Declaration of Andrea
 19 Nill Sanchez in Support of Arista's Opposition to Cisco's Motion to Exclude Expert Opinion
 20 Testimony of William M. Seifert:

Document	Portions of Document to be Sealed	Parties Claiming Confidentiality
Arista Network Inc.'s Opposition to Cisco's Motion to Exclude Expert Opinion Testimony of William M. Seifert	Highlighted Portions	<i>Cisco</i>

Document	Portions of Document to be Sealed	Parties Claiming Confidentiality
Exhibit 1 to the Declaration of Andrea Nill Sanchez in Support of Arista Network Inc.'s Opposition to Cisco Systems, Inc.'s Motion to Exclude Opinion Testimony of William M. Seifert ("Exhibit 1")	Entire	<i>Cisco</i>
Exhibit 4 to the Declaration of Andrea Nill Sanchez in Support of Arista Network Inc.'s Opposition to Cisco Systems, Inc.'s Motion to Exclude Opinion Testimony of William M. Seifert ("Exhibit 4")	Entire	<i>Arista</i> <i>Cisco</i>
Exhibit 5 to the Declaration of Andrea Nill Sanchez in Support of Arista Network Inc.'s Opposition to Cisco Systems, Inc.'s Motion to Exclude Opinion Testimony of William M. Seifert ("Exhibit 5")	Entire	<i>Arista</i> <i>Cisco</i>

5. Arista is only submitting the highlighted portions of its Opposition to Cisco Systems, Inc.'s Motion to Exclude Opinion Testimony of William M. Seifert under seal because they cite to the deposition transcript of William M. Seifert, which Cisco designated "Highly Confidential—Attorneys' Eyes Only." To the extent Cisco seeks to keep these portions under seal, I understand that it may file a declaration to do so under Civil Local Rule 79-5(e)(1).

6. Exhibit 1 consists of excerpts from the June 29, 2016 Deposition of William M. Seifert. Arista does not seek to file these excerpts under seal. Arista is only submitting Exhibit 1 under seal because Cisco designated the deposition transcript "Highly Confidential—Attorneys'

1 Eyes Only." To the extent Cisco seeks to keep any portion of Exhibit 1 under seal, I understand
 2 that it may file a declaration to do so under Civil Local Rule 79-5(e)(1).

3 7. Exhibit 4 consists of excerpts from the Expert Report of Judith A. Chevalier
 4 (submitted on June 24, 2016) addressing the damages allegedly suffered by Cisco associated with
 5 Arista's alleged copyright and patent infringement. Good cause exists to seal these portions of
 6 the Report because they discuss and contain excerpts and quotes from highly confidential Arista
 7 witness deposition testimony, including testimony concerning Arista's sensitive marketing and
 8 sales strategies. This testimony is sensitive and highly confidential business information that
 9 would cause harm to Arista if disclosed publicly. *See Apple v. Samsung*, 727 F.3d 1214, 1221–22
 10 (Fed. Cir. 2013) (sealing is appropriate even under the compelling standards threshold if the
 11 release of the information will cause competitive harm to a business). The attached pages also
 12 refer to actual and prospective customer information, including information about customer
 13 requirements and preferences regarding purchasing, that Arista maintains as highly confidential.
 14 Arista believes that its actual and prospective customers expect that information relating to their
 15 purchasing preferences and transactions is maintained in the utmost confidence. Good cause—
 16 and also compelling reasons—justify sealing these portions of Ms. Chevalier's report. *See*
 17 *Schwartz v. Cook*, No. 15-cv-03347-BLF, 2016 WL 1301186, at *2 (N.D. Cal. Apr. 4, 2016)
 18 (discussing the harm that could result by the dissemination of similar sensitive internal business
 19 information to competitors); *Delphix Corp. v. Actifio, Inc.*, No. 13-cv-04613-BLF, 2014 WL
 20 4145520, at *2 (N.D. Cal. Aug. 20, 2014) (same); *Koninklijke Philips N.V. v. Elec-Tech*
 21 *International Co., Ltd.*, No. 14-cv-02737-BLF, 2015 WL 581574, at *1–3 (N.D. Cal. Deb. 10,
 22 2015) (same).

23 8. Exhibit 5 consists of excerpts from the Rebuttal Expert Report on Fair Use of
 24 Judith A. Chevalier (submitted on June 17, 2016). The attached pages similarly contain actual
 25 and prospective customer information, which Arista maintains as highly confidential. It also cites
 26 testimony about overall product development strategy, including Arista's discussion with
 27 customers about their product preferences, which is sensitive and highly confidential business
 28 information. Good cause and compelling reasons justify sealing these portions of Ms. Chevalier's

1 report because they discuss customer preferences and transactions that would cause harm to
2 Arista if disclosed publicly. *See Schwartz*, 2016 WL 1301186, at *2 (discussing the harm that
3 could result by the dissemination of similar sensitive internal business information to competitors,
4 who would find it valuable); *Delphix*, 2014 WL 4145520, at *2 (same); *Koninklijke Philips*, 2015
5 WL 581574, at *1–3 (same).

6

7 I declare under penalty of perjury under the laws of the State of California that the
8 foregoing is true and correct and that this declaration was executed on August 19, 2016, in
9 San Francisco, California.

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ANDREA NILL SANCHEZ